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The Goodyear Tire & Rubber Co.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELECTRONICALLY FILED

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:
LAUREN BICKFORD-BUSHEY, :
:
Plaintiff, :
:
-against- : 08 CIV 4465 (PKL)
:
[Related to 06 CIV 13371 (PKL)]
:
GREYHOUND LINES, INC., and THE :
GOODYEAR TIRE and RUBBER COMPANY, :
:
Defendants. :
:

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GREYHOUND LINES, INC., :
Third-Party Plaintiff, :
:
vs. :
:
MOTOR COACH INDUSTRIES, INC. and UGL :
UNICCO, Formerly Known as UNICCO Service :
Company, :
Third-Party Defendants. :
:
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**GOODYEAR'S CROSS-CLAIMS
AGAINST THIRD-PARTY
DEFENDANTS MCI AND UNICCO**

The Goodyear Tire & Rubber Company s/h/a The Goodyear Tire and Rubber Company ("Goodyear"), by its attorneys, Herrick Feinstein LLP, hereby asserts cross-claims against third-party defendants Motor Coach Industries, Inc. ("MCI") and UGL UNICCO, f/k/a UNICCO Service Company ("UNICCO") (incorporating herein all prior and related pleadings and defenses) as follows:

**AS AND FOR A FIRST
CROSS-CLAIM AGAINST MCI and UNICCO**

1. If Plaintiff and Third-Party Plaintiff were caused to suffer damages as a result of the incidents alleged in the Amended Complaint and Third-Party Complaint, such damages were not due to any negligence, strict liability, breach of contract or fault on the part of Goodyear, but rather were due in whole or in part to the negligence, carelessness, strict liability, breach of contract, or breach of warranty of MCI and UNICCO, and their directors, officers, agents and employees.

2. If Goodyear is held liable for any of the damages claimed by Plaintiff or Third-Party Plaintiff, then Goodyear is entitled to contribution and/or indemnification, in whole or in part, from MCI and UNICCO, of any judgment obtained or a part of any judgment obtained on the basis of an apportionment of responsibility between them and Goodyear, as well as costs and attorney fees.

**AS AND FOR A SECOND
CROSS-CLAIM AGAINST UNICCO**

3. On or about August 30, 1995 Goodyear entered into an Agreement (the "Agreement") with Ogden Cisco, Inc. ("Ogden") (a copy of which is annexed as an exhibit to prior pleadings and is referred to in the Third-Party Complaint).

4. On or about September 11, 1996, Ogden assigned the Agreement and all obligations thereunder to UNICCO as per an assignment agreement of that date (the "Assignment") (the Assignment was also annexed as an exhibit to prior pleadings and is referred to in the Third-Party Complaint).

5. UNICCO, formerly known as UNICCO Service Company, changed its name from UNICCO Service Company to UGL UNICCO on or about November 19, 2007.

6. The above-mentioned Agreement dated August 30, 1995 and the Assignment thereof to UNICCO were in full force and effect and binding upon UNICCO on August 28, 2006, and up to the present. During this period of time UNICCO provided services to Goodyear and Greyhound Lines, Inc. ("Greyhound") based on the terms of the Agreement.

7. Paragraph 5 of the Agreement defines and delineates the Indemnification obligations owed by UNICCO to Goodyear. Paragraph 5 requires UNICCO to "fully indemnify and hold harmless" Goodyear, its directors, officers, employees and agents, "from any and all claims, demands, losses and expenses of whatsoever nature, character or description that any person or entity has or may have arising out of or relating to the breach of or failure to perform the contract services....or resulting from any negligent act, omission, misconduct or fault of Contractor (UNICCO), their employees and/or agents."

8. Paragraph 4 of the Agreement refers to insurance coverage which UNICCO is required to provide to Goodyear, "with respect to indemnity provisions of this Agreement" (i.e. UNICCO's indemnity obligations to Goodyear pursuant to paragraph 5). Goodyear is to be named as an additional insured in an insurance policy which must be a "primary" policy (the indemnification obligation of UNICCO is not restricted to the limits of the insurance coverage).

9. Goodyear has previously made demand upon UNICCO that it fully indemnify and hold harmless Goodyear for all liability claims, demands, losses, and expenses arising out of UNICCO's services required under the Agreement as they relate to various claims made regarding the subject Greyhound bus accident and which form the basis of the actions pending in this Court. UNICCO has failed and/or refused to indemnify Goodyear and has not provided or procured appropriate coverage pursuant to paragraph 4 of the Agreement, even though a defense and indemnification under such coverage has been demanded by Goodyear.

10. As a result, UNICCO has breached and continues to breach the Agreement with Goodyear and Goodyear has been damaged as a result thereof.

WHEREFORE, Defendant Goodyear demands Judgment granting its cross-claims against the third-party defendants together with costs, disbursements and attorneys' fees, and granting such other and further relief which this Court deems appropriate.

Dated: New York, New York
June 26, 2008

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